United Nations S/2001/1316

Security Council

Distr.: General
31 December 2001
English
Original: French

Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Tunisia, submitted pursuant to paragraph 6 of resolution 1373 (2001).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

Note verbale dated 26 December 2001 from the Permanent Mission of Tunisia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Tunisia to the United Nations in New York presents its compliments to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, adopted on 28 September 2001, and, with reference to the note of 29 October 2001, has the honour to transmit to it herewith the report on the measures taken by Tunisia to implement the above-mentioned resolution (see enclosure).

Enclosure

[Original: Arabic]

Report of Tunisia under Security Council resolution 1373 (2001) of 28 September 2001 concerning counter-terrorism

Introduction

Since the beginning of the 1990s Tunisia has adopted a variety of bold steps and measures to counter the phenomenon of terrorism. It has always been concerned to make the international community fully aware of its dangers and consequences and has called in this context for the strengthening of international efforts to combat it. Today it affirms its full commitment to the provisions of resolution 1373 (2001), adopted on 28 September 2001.

As a result of the adoption of this resolution, a study is currently being made at the level of the Ministry of Justice, in cooperation with the other ministerial departments concerned, with a view to the preparation of a comprehensive bill relating to the combating of all forms of terrorism, in the light of the relevant international conventions and United Nations decisions, to be added to the various other laws promulgated since 1993.

Tunisia, which has clearly expressed its rejection of the use of force or threat of force as a means of attaining goals characterized by any form of extremism, was one of the first countries to urge the necessity of joint action to combat terrorism with a view to establishing a basis for permanent stability and security.

The Tunisian State did not wait for the events of 11 September 2001 before taking the necessary measures to combat the phenomenon of terrorism, as it had already proceeded to combat it within its borders and succeeded in countering it. It is convinced that the combating of this phenomenon is not confined to the security aspects but also requires the adoption of a multidimensional approach — economic, social, educational and other — aimed at eliminating the causes that lead to the emergence and growth of this scourge, such as marginalization, exclusion, extremism and poverty.

At the international level, Tunisia has proposed the adoption of a general framework to ensure the optimal monitoring and countering of this phenomenon, the strengthening of the elements of security and peace and facilitation of consultations on the plans and strategies to be followed in this field, in the context of serious and effective international solidarity and cooperation, and has to this end urged the necessity of adopting the following line of conduct:

- Closing all outlets for terrorism and refusing any material or moral support for terrorists, in particular combating the emergence and spread of the networks that support terrorism directly or indirectly;
- Ruling out anything that might enable terrorists to benefit from the right to asylum, immunity or protection and refusing to grant the right of asylum to the perpetrators of terrorist crimes or those involved in them in any way;
- Freezing resources intended for the financing and support of terrorism at all levels;

- Intensifying exchanges of data in order to assess the situation of the phenomenon of terrorism and its effects, evolution and future trends and encouraging the direct exchange of views and experience;

- Promoting the exchange of security and operational information between intelligence services; where the situation requires that this be done through liaison officers and aides, the modalities and the details of their role shall be determined at the time;

- Facilitating legal cooperation and making it speedier and more flexible, particularly in the field of extradition of criminal offenders;

- Incorporating in criminal legislation, provisions penalizing acts of incitement to religious fanaticism and to hatred on racist or xenophobic grounds.

Within the framework of the implementation of the provisions of resolution 1373 (2001), Tunisia embarked on the establishment of a national committee comprising ministries and numerous national services to prepare the report that each State is to submit to the Security Council Committee established pursuant to this resolution.

In proceeding to prepare the first report of Tunisia under resolution 1373 (2001), the National Committee decided to set forth an account of the national legislation and measures and the steps taken with regard to international conventions in the areas covered by this resolution, pending the promulgation of the comprehensive national law on counter-terrorism.

The contents of this report are divided into the following chapters:

Chapter I: Financial legislation in Tunisia and counter-terrorism;

Chapter II: National legislation and measures in the field of counter-terrorism;

Chapter III: Tunisia and international conventions relating to counter-terrorism;

Chapter IV: International cooperation in the field of counter-terrorism.

Chapter I
Financial legislation in Tunisia and counter-terrorism

Questions of the Security Council Committee on the provisions of paragraph 1 of resolution 1373 (2001)

Subparagraph (a) — What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d).

Subparagraph (b) — What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

Subparagraph (c) — What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

Subparagraph (d) — What measures exist to prohibit the activities listed in this subparagraph?

Tunisian financial legislation is characterized by an evolved legal framework based on the criteria followed at the international financial level. It comprises a corpus of provisions that ensure transparency in financial transactions and specific and precise rules and procedures for the conduct of the various activities coming within this field. The following are the most important of these provisions.

I. Banking activities

1. Permission to engage in banking activity

Engagement in banking activity is subject to Act No. 65 (2001) of 10 July 2001 concerning loan institutions and Act No. 108 (1985) of 6 December 1985 concerning the promotion of financial and banking institutions dealing primarily with non-residents.

The granting of permission to engage in banking activity is subject to strict rules, inasmuch as it is issued by a decision of the Ministry of Finance on the basis of a report prepared by the Tunisian Central Bank containing all necessary data and information regarding, in particular, the programme of activity of the applicant institution, the technical and financial means it intends to employ, the owners of the capital and their guarantors and the reputation and competence of the institution's directors.

2. Acquisition of shares in the capital of loan institutions

Any acquisition of controlling shares in the capital of a loan institution is subject to permission granted by the Minister of Finance on the basis of a report from the Tunisian Central Bank. The same applies, in all cases, to any transaction leading to ownership of a proportion equal to or exceeding 10 per cent of voting rights.

Any acquisition by aliens of shares or representation in the capital of Tunisian companies where the proportion of foreign participation in capital exceeds 50 per cent is, in general, subject to approval by the Supreme Commission on Investment.

3. Bank accounts

In Tunisian law there are no secret or encoded accounts, and, accordingly bank accounts contain all data concerning the depositor:

- With regard to natural persons:

– First name, surname, address and postal code;

– Date and place of birth and occupation;

– Details of national identity card for Tunisians, passport for non-resident aliens or residence card for resident aliens;

- With regard to legal persons:

– Business name and registered place of business;

– Number of entry in the commercial register and the company register and any other pertinent data;

• With regard to associations:

– Name and head office of the association;

– Number of permit from the Ministry of the Interior and any other pertinent data;

– All necessary information regarding the person qualified to withdraw funds.

It should be noted that banks are required to update the above data in respect of all their clients.

4. Elimination of bearer bonds

Under Act No. 35 of 2000 of 21 March 2000 concerning the establishment of intangible securities, the issuance of bearer bonds was prohibited, inasmuch as this Act provides that all financial papers of whatever kind issued in Tunisia and subject to Tunisian law are registered and are guaranteed by the accounts held by the issuing entities or an authorized agent.

5. Monitoring of loan institutions

Loan institutions are subject to ongoing comprehensive monitoring by the Tunisian Central Bank. This involves the monitoring of documents and monitoring at the head office.

The monitoring may cover the head offices of loan institutions and any independent branch offices and subsidiaries directly or indirectly controlled by them and, similarly, independent branch offices of such subsidiaries.

To this end, any loan institutions established under Tunisian law and also any branch offices and agencies of loan institutions having their registered place of business abroad and licensed to pursue their activity in Tunisia must:

– Keep accounts in accordance with the accounting legislation for institutions; a sophisticated accounting system has been adopted that meets international criteria;

– Prepare during the year a statement of their situation for accounting purposes in accordance with periodic deadlines and in accordance with a set form drawn up by the Tunisian Central Bank;

– Provide to the Tunisian Central Bank all documents, data, clarifications and supporting papers necessary for consideration of their situation and to facilitate the task of ascertaining that they are duly following the procedures laid down for the monitoring of loans and exchange and the monitoring of loan institutions.

The Banking Act makes the annual accounts of loan institutions subject to approval by an official auditor inscribed on the register of the Tunisian Board of Accounting Experts, so that, in addition to their legal obligations, this Act requires the auditors:

- To inform the Tunisian Central Bank immediately of any transaction likely to jeopardize the interests of the institution and its depositors;
- To transmit to the Tunisian Central Bank during the six months following each financial year a report on the audits they have done; this report must be drawn up in accordance with the conditions and modalities stipulated by the Tunisian Central Bank;
- To transmit to the Tunisian Central Bank a copy of their reports on the general meetings and boards of the institutions whose accounts are audited by them.

II. Monitoring of exchange and foreign trade procedures

Exchange and foreign trade procedures are monitored in accordance with a number of provisions, namely the Exchange and Foreign Trade Code, promulgated under Act No. 18 of 1976 concerning review and codification of legislation on exchange and foreign trade and regulating relations between Tunisia and foreign countries, and Order No. 608 of 1977 concerning implementation of the Code, as well as a number of exchange notices issued by the Ministry of Finance and circulars issued by the Tunisian Central Bank.

1. Monitoring of the export and import of currency

– Import of currency

Travellers, whether residents or non-residents may freely import foreign currency and other payment instruments in foreign currency, but non-resident travellers must, when entering Tunisia, declare to Customs the amount of foreign currency in their possession if they wish to re-export a portion thereof equivalent to or exceeding 1,000 dinars or if they wish to deposit such amounts in their foreign accounts opened with Tunisian banks.

– Export of currency

With regard to non-residents, no Customs declaration is required for the import of currency unless an amount equivalent to or exceeding 1,000 Tunisian dinars of the foreign currency is to be re-exported;

With regard to residents, the holding and export of foreign currency is prohibited except in those cases specifically authorized under the procedures in effect (travel grant, business travel grant, study grant, etc.). In such cases, the acquisition of such currency is effected through an authorized agent, who supplies the person concerned with a permit to export such currency.

The Customs authorities may at any time require travellers from and to Tunisia to submit a declaration of any gold, securities, currency and payment instruments in their possession. For the export abroad of the aforementioned items by mail, the mail item must be transmitted (un)sealed to the post office so that its contents may be checked and an export permit attached, unless the Central Bank has authorized it to be forwarded sealed. For the import of such items into Tunisia by mail, the importer must obtain prior authorization.

2. Monitoring of the opening and operation of accounts in foreign currency and convertible dinars

Since the principle is the freedom of non-residents to open accounts in foreign currency, convertible dinars and ordinary dinars, as laid down in Exchange Notice No. 5, the Central Bank monitors the opening and operation of such accounts after the fact. For example, the authorized agents must:

- Transmit a statement to the Central Bank by the fifteenth day of each month of accounts and "capital" portfolios opened on their books, including certain information concerning the holders of such accounts;
- Notify the Central Bank by the twentieth day of each month of the accounts in foreign currency and convertible dinars opened on their books by non-residents during the past month; this notification must be effected by transmission of a detailed statement on the matter;
- Transmit a statement to the Central Bank by the tenth day of each month of foreign currency cash withdrawal and depletion transactions effected in respect of foreign accounts (Circular No. 2 of 1987).

The Central Bank also monitors accounts in foreign currency and convertible dinars belonging to residents. These are accounts opened with banks either by residents who derive income in foreign currency or convertible dinars from their professional activity or persons who derive income in foreign currency from their property and assets abroad. This monitoring may be done in advance and take the form of prior authorization from the Central Bank for professional accounts in convertible dinars and "export profits" accounts in convertible dinars. The same applies in the case of accounts in foreign currency and convertible dinars where submission of a statement to the Central Bank regarding the property abroad from which such foreign currency derives constitutes prior monitoring of the opening of such accounts. Monitoring by the Central Bank may be done after the fact. Circular No. 14 of 1993 stipulates that authorized agents must provide the Tunisian Central Bank at the end of each quarter with a statement of professional accounts in foreign currency opened on their books during that period.

It should also be mentioned that authorized agents with whom securities and foreign currency are deposited in accordance with the exchange legislation are responsible for reporting to the Tunisian Central Bank the securities and foreign currency held by them, whether they be profits on their own assets or held for the account of their clients.

3. Monitoring of direct investments

Residents and non-residents may invest freely in most sectors within the framework of the Investment Promotion Code provided that they report the investment transaction to the competent administrative authorities. However, there are certain activities in which investment requires prior authorization, such as the education and vocational training and health sectors. Foreign participation in certain other sectors is also subject to approval by the Supreme Commission on Investment where such participation exceeds 50 per cent of the capital of the institution concerned, such as services that are totally non-export in the field of transport, communications, public works and land reclamation.

The reporting, authorization or approval of a project, as the case may be, is done on the basis of documents and information relating to the various aspects of the project, particularly those concerning foreign shareholders and the sources of its financing, especially in the case of financing in foreign currency from abroad.

Central Bank Circular No. 5 of 1993 stipulates that authorized agents must prepare a foreign currency investment slip for each investment in foreign currency effected through them and must submit them to the Central Bank within 10 days from the date of the investment (participation in business capital; acquisition of shares or stock in companies established in Tunisia; acquisition of commercial real estate or assets, etc.).

III. Measures to freeze assets and accounts in banks and financial institutions

Under Tunisian law, the assets and property of the perpetrators of criminal offences may be subject to certain measures, such as sequestration, confiscation and seizure, in the cases where this is provided for by law (sections 97 to 100 of the Code of Penal Procedure and sections 5 and 28 of the Criminal Code, for example).

Mention should be made by way of example of the provisions of sections 28 and 29 of Act No. 52 of 18 May 1992 concerning narcotic drugs.

Other legislation relating to the combating of the financing of terrorism

In many cases, drug dealing and corruption are sources for the financing of terrorism. Tunisia has legislation to combat both these scourges: Act No. 52 of 18 May 1992 aimed at combating the use of and dealing in narcotic drugs, sections 83 and 84 of the Criminal Code and sections 87 to 89 of that Code, as revised by Act No. 23 of 27 February 1989.

It should be noted that any collection of voluntary contributions is subject to prior permission from the Prime Minister (Order issued on 8 May 1922).

The comprehensive bill on counter-terrorism currently under preparation will incorporate the necessary provisions to promote more effectively the combating of the financing of terrorism.

Chapter II
National legislation and measures in the field of counter-terrorism

I. Legislation

Questions of the Committee on paragraph 2 of resolution 1373 (2001)

Question relating to subparagraph (a) — What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help to prevent such activities?

Question relating to subparagraph (c) — What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

In view of the dire consequences of terrorist acts for the security of individuals, groups and property, the Tunisian Criminal Code regards such acts as serious criminal offences and imposes the most severe penalties for them.

The Criminal Code contains sections describing terrorist offences (section 52 bis of the Criminal Code) and specifying the penalties laid down for terrorist offences relating to external and internal attacks on the security of the State, attacks on public authority, including criminal complicity, and criminal offences against persons and property.

Description of terrorist offences

Tunisian legislation provides that criminal offences are classified as terrorism if they are related to an individual or collective project aimed at damage to persons or property for the purpose of intimidation or causing alarm. In addition, Tunisian legislation includes acts of incitement to hatred or racist or religious fanaticism in the category of criminal offences dealt with as terrorist offences. In addition to the principal penalties, such offences require that the convicted person be placed under administrative surveillance for five years, and sentences cannot run concurrently.

The phenomena of terrorist crimes

• External attacks on the security of the State

These offences (sections 61 and 62 of the Criminal Code) relate to exposing the country to a declaration of war through acts of aggression committed and exposing Tunisians to acts of revenge. These offences are punishable by 12 years' and not less than six years' imprisonment if they are committed in time of war and not less than two and a half years' imprisonment if they are committed in time of peace. An attempt renders the perpetrator liable to the punishment.

• Internal attacks on the security of the State

Tunisian law imposes maximum penalties in the following cases (sections 72 to 78 of the Criminal Code):

- Any person who provokes armed attacks among the population or disorder, slaughter and looting is liable to the penalty of execution;
- Any person who assembles or heads and arms groups for the purpose of plundering the assets of the State and of individuals is liable to the penalty of life imprisonment and a fine of 200,000 dinars;
- Any person who knows of the purpose and nature of such groups and consents to join them or supplies them without coercion with weapons, shelter or hiding and meeting places is liable to the penalty of 20 years' imprisonment and a fine of 200,000 dinars;
- Any person who burns or destroys with explosives military or other buildings or ammunition depots or other property is liable to the penalty of execution;

– If an attack is committed by an armed group, each member is liable to the penalty of 10 years' and not less than five years' imprisonment;

– In the event of an attempted attack by an armed gang, the penalty of three years' and not less than one and one half years' imprisonment is imposed.

• **Attacks on public authority with criminal complicity** (sections 131, 132 and 133 of the Criminal Code)

With regard to criminal offences against public security, any group formed and any agreement reached for the purpose of preparing or committing an attack against persons or property is punishable by 12 years' and not less than six years' imprisonment for the group leaders, and similarly where a child or a number of children under the age of 18 are used. Any person involved with such groups or participating in such agreement is liable to six years' and not less than three years' imprisonment. The same applies to any person who deliberately prepares a meeting place for group members, assists them with money or in benefiting from the proceeds of their actions or gives them lodging or a hiding place.

• **Criminal offences against persons** (sections 201, 205, 208, 209, 218, 219, 220 and 237 of the Criminal Code)

The following are some examples:

– Murder is punishable by execution or life imprisonment;

– Killing resulting from striking and wounding without intent to kill is punishable by 20 years' and not less than 10 years' imprisonment and by life imprisonment where the striking and wounding has the element of premeditation;

– Violence (sections 218, 219 and 220 of the Criminal Code): for example, in the case of violence resulting in injury, the penalty is one year's and not less than six months' imprisonment;

– Kidnapping is punishable by 20 years' and not less than 10 years' imprisonment if the person kidnapped is a civil servant or a member of the diplomatic or consular corps or a member of the family of such a person or a child under 18 years of age. Kidnapping is punishable by life imprisonment if a weapon is used and also if the offence results in a breakdown or illness and by execution if it is accompanied or followed by death.

• **Attacks on property** (sections 304, 306 bis, 307 and 310 of the Criminal Code)

– Attacks on property are punishable by 20 years' imprisonment if explosives are used and by execution if death occurs;

– Seizure of any means of transport (land, sea or air) by threat or violence is punishable by 10 years' imprisonment and by 20 years', by not less than 10 years' imprisonment if it results in injury or illness and by life imprisonment if it results in death.

• **Terrorism and political asylum** (sections 313 and 305, para. 3, of the Code of Penal Procedure)

In addition to the above, Tunisian legislation does not regard terrorist offences as political offences, and political asylum is not granted in respect of them.

The Tunisian courts can try a Tunisian national if he commits an offence categorized as terrorist outside Tunisian territory, even if such offences are not penalized under the legislation of the State in which they were committed.

Tunisian legislation also contains provisions aimed at the elimination of hatred.

Section 8 of the Tunisian Constitution stipulates that parties are to reject all forms of violence, extremism and racism and all types of discrimination. No party is permitted to base its principles and purposes, activities or programmes on any religion, language, race, nationality or tendency.

Tunisian legislation makes it a crime to preach hatred among nationalities, religions or population groups or to disseminate ideas based on racial distinction. We find clear pronouncements to this effect in the Child Protection Code (sections 1, 19 and 20), the Press Code (sections 44 (new) and 54, paragraph 4 (new)), the Act on the Organization of Political Parties (sections 2 and 3) and the Education System Act (section 1).

Tunisia has issued a formal charge of commission of terrorist acts and membership in an extremist group with an organic link to the al-Qa'idah organization. On 20 December 2001, three members of this group stood before the Permanent Military Tribunal in Tunis, having been apprehended, while other members of the same group are being tried in absentia. One of the latter was apprehended recently in a foreign country on a charge of heading a network that aids and abets al-Qa'idah. The Tribunal decided to postpone the trial until 30 January 2002.

In general, Tunisian legislation is not simply confined to the suppression of terrorist acts and all forms of violence but seeks to rid Tunisian society of all the evils of hatred and the deleterious effect of creeds of discrimination and exclusion.

Question relating to subparagraph (b) — What other steps are being taken to prevent the commission of terrorist acts and, in particular, what early warning mechanisms exist to allow exchange of information with other States?

The Tunisian authorities approve the establishment of early warning mechanisms in the area of the exchange of information with other States with a view to preventing the occurrence of terrorist acts and being alerted to them in order to enhance its capacity to deal with them and suppress them before they occur. Tunisia has appealed in many international forums for the revitalization of such cooperation at the international level.

Question relating to subparagraph (c) — What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph? It would be helpful if States supplied examples of any relevant action taken.

Under sections 313 and 305 of the Code of Penal Procedure, Tunisian legislation prohibits the granting of political asylum to the perpetrators of criminal offences categorized as terrorist. Such offences are not deemed political.

Question relating to subparagraph (d) — What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied reports of any relevant actions taken.

The provisions of the Tunisian Criminal Code apply to all terrorist acts committed in Tunisia. The criminal offences penalized include exposing the country to a declaration of war by acts of aggression committed and exposing Tunisians to acts of revenge. A Tunisian may be brought to trial if he has committed an offence categorized as terrorist outside Tunisian territory.

Question relating to subparagraph (f) — What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.

Tunisia has ratified most of the multipartite international conventions on counter-terrorism, as well as many bilateral agreements concluded for this purpose. It expresses its readiness to activate this cooperation at the international level.

Question relating to subparagraph (g) — How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery, etc?

The competent services of the Ministry of the Interior monitor the border rigorously and continuously in order to prevent unlawful transborder traffic and to prevent the movement of terrorists. In their performance of this task and as required, they coordinate with the services of the Ministry of National Defence and with Customs units.

Ministry of National Defence units exchange information with the competent bodies for the purpose of counter-terrorism and monitor land borders and maritime areas and airspace in order to prevent the movement of terrorist elements or any smuggling operations. An intervention unit has been set up and trained in the field of the combating of armed elements and terrorist operations.

Personal identity is checked automatically when identity papers and travel documents are issued, and information concerning such identity is exchanged between the relevant bodies in Tunisia.

Questions of the Committee on paragraph 3 of resolution 1373 (2001)

Question relating to subparagraph (f) — What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

The Tunisian authorities consider applications for asylum and check the identity of the applicant on the basis of the information available to them and by reference to the relevant lists prepared by the United Nations. The Office of the United Nations High Commissioner for Refugees (UNHCR), through its office in Tunis, in turn issues a certificate to applicants for asylum and, upon acceptance of the application by UNHCR, a certificate of recognition of refugee status.

Question relating to subparagraph (g) — What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

It should be mentioned in this regard that sections 313 and 305 of the Code of Penal Procedure do not regard terrorist offences as political offences and, accordingly, do not grant refugee status in such cases.

Requests for the extradition of offenders are generally referred to the Ministry of Justice for consideration and are considered on the basis of the numerous bilateral agreements concluded in this field.

It should be noted that Tunisia has approached a number of States with requests for the extradition of Tunisians involved in terrorist cases but has met with no response. It appears that a number of the requested persons have, in one way or another, enjoyed refugee status in these countries and that they have been involved in terrorist acts, with al-Qa'idah inter alia.

II. Measures taken with regard to the security of civil aviation

1. Measures taken prior to Security Council resolution 1373 (2001) and already in effect

Tunisia is well advanced in the field of civil aviation, inasmuch as numerous measures taken recently by some States have been in place in Tunisia for a number of years, since there is automatically close and regular monitoring of the security situation at our international airports. The principle measures may be summarized as follows:

- X-ray inspection of all baggage and passengers upon arrival and departure at all international airports;
- Promotion of security on board aircraft by posting specialized security aides on all flights of national airlines;
- Adoption of security programmes for flight operations for national airlines;
- Calling upon foreign airlines operating to and from Tunisia to provide the Ministry of Transport with their security programmes;
- Preparation and study of security programmes of airlines;
- Establishment of local committees at all international airports to be responsible for the security and facilities of these airports and for studying ways of dealing with deficiencies and shortcomings and improving security performance at the airports;
- Preparation of legislative and educational texts on the security of civil aviation.

The competent departments in the Ministry of Transport have prepared three bills that are currently being studied by the National Assembly and are designed to align our domestic legislation with the requirements of international conventions relating to the security and safety of civil aviation (Acts relating to the revision and

completion of certain provisions of the Civil Aviation Code, Code of Penal Procedure and Criminal Code).

A draft order has also been prepared on the security of civil aviation, in coordination with all the ministries and bodies concerned. This order regulates the tasks of the bodies responsible for the protection of civil aviation from acts of unlawful intervention and the rules and procedures for such protection and contains provisions relating to the following:

- The National Programme for the Security of Civil Aviation;
- Composition and mandate of the National Committee for the Security of Civil Aviation;
- Establishment of local committees on civil aviation at international airports;
- Programmes for the security of civilian airports open to air travel;
- Programmes for airline security.

With the promulgation of these laws and the order (first quarter of 2002), we shall have an integrated legislative system in the field of the security civil aviation that will enable us to eliminate the major deficiencies it registered in this area.

2. Measures taken in implementation of Security Council resolution 1373 (2001)

Following the recent terrorist attacks against the United States and in implementation of Security Council resolution 1373 (2001) of 28 September 2001, and for the purpose of monitoring and promoting the security of civil aviation through the security situation at international airports, the Ministry of Transport undertook a study of ways to improve security performance in this field by taking the following measures.

• Preparation of a national programme for the security of civil aviation and programmes for the security of airports

The National Programme for the Security of Civil Aviation will be finalized in the form of a guide manual containing, in particular:

- The functions of the administrative and financial departments and the bodies involved in the area of the security of civil aviation and the modalities of coordination between them;
- Organizational guidelines and preventive measures and procedures for the protection of civil aviation;
- Essential means of implementing the National Programme for the Security of Civil Aviation and methods for putting them into operation and monitoring them;
- Emergency plans and management of the response to acts of unlawful intervention;
- Training of aides to implement the Programme for the Security of Civil Aviation.

• **National Committee for the Security of Civil Aviation**

The National Committee for the Security of Civil Aviation is responsible, in coordination with the parties and bodies responsible for the security of civil aviation, for the following:

- Monitoring the drafting of the National Programme for the Security of Civil Aviation;
- Checking the security situation at airports;
- Entrusting local committees at airports with the task of drafting the security programme for each international airport, including specific emergency plans, by the end of June 2002.

• **Bilateral agreements in the field of air transport**

An article relating to the security of aviation recommended by the International Civil Aviation Organization is incorporated in the draft of every bilateral agreement on air transport or any amendment thereto.

Chapter III
Tunisia and international conventions relating to counter-terrorism

Questions of the Committee relating to paragraph 3 of resolution 1373 (2001)

Subparagraph (d) — What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

Subparagraph (e) — Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

Believing in the gravity of the phenomenon of terrorism and the enormity of its negative effects on international peace and security, Tunisia feels that the combating of terrorism can be achieved only through the promotion of cooperation and the redoubling of international efforts to arrive at comprehensive legal coverage at a global level dealing with the issue of terrorism in all its aspects and forms and prohibiting the commission or financing of terrorist acts, incitement to terrorism, complicity in terrorism, connivance in terrorism or the protection or sheltering of its perpetrators. Because of our firm belief in the necessity of adhering to the principles and provisions of international law and the Charter of the United Nations and of implementing the provisions of the international conventions concluded on terrorism, Tunisia is a party to 10 (ten) of the 12 conventions on counter-terrorism that have been concluded. On 2 November 2001, it signed the International Convention for the Suppression of the Financing of Terrorism. Tunisia has also decided to accede to the International Convention for the Suppression of Terrorist Bombings and is currently following the necessary constitutional procedures to become a party to these two conventions.

Tunisia is also participating actively in the negotiations currently under way in the Sixth Committee of the United Nations General Assembly with a view to the elaboration of a comprehensive convention for the suppression of this phenomenon.

It should be noted that Tunisia was among the States that called for the drawing up of such a convention. Tunisia was also among the first to propose initiatives to combat terrorism within the framework of the conventions concluded or the General Assembly resolutions relating to terrorism. On all these occasions, it urged that the following factors be highlighted:

- The adoption of binding and decisive measures against the perpetrators of terrorist acts;
- The need to criminalize terrorist action and to guarantee the extradition of its perpetrators and their trainers and to prosecute them and bring them to trial wherever they are found;
- The implementation of more rigorous measures with regard to the granting of the right of asylum so that terrorists do not benefit from it;
- The inadmissibility of political motivation as grounds for refusing to extradite terrorists;
- The adoption of the necessary measures to monitor the financing of terrorist activities and the use of charitable organizations by terrorists as a cover for their actions and monitoring by modern information and communication technology;
- Emphasis on the close link between terrorism and organized crime.

I. Tunisia is a party to the following international conventions and protocols:

- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (adopted at New York on 14 December 1973); signature on 15 May 1974 and ratification on 4 November 1976;
- International Convention against the Taking of Hostages (adopted at New York on 17 December 1979); accession on 3 March 1997;
- International Convention on Offences and Certain Other Acts Committed on Board Aircraft (signed at Tokyo on 14 September 1963); accession on 24 October 1974;
- International Convention for the Suppression of Unlawful Seizure of Aircraft (signed at The Hague on 16 December 1970); accession on 1 September 1981;
- International Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (signed at Montreal on 23 September 1971); accession on 1 September 1981;
- International Convention on the Physical Protection of Nuclear Material (signed at Vienna on 3 March 1980); deposit of instruments of ratification on 18 June 1993;
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (signed at Montreal on 24 February 1988); Accession on 17 January 1994;

- International Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (done at Rome on 10 March 1988); accession on 15 December 1997;
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (done at Rome on 10 March 1998); Accession on 15 December 1997;
- International Convention on the Marking of Plastic Explosives for the Purpose of Detection (signed at Montreal on 1 March 1991); accession on 1 August 1994.

II. Tunisia is currently following the constitutional procedures to become a party to the following international conventions:

- International Convention for the Suppression of Terrorist Bombings (adopted at New York on 15 December 1997);
- International Convention for the Suppression of the Financing of Terrorism (adopted at New York on 9 December 1999); Tunisia signed this Convention on 2 November 2001.

III. Within the framework of regional organizations, Tunisia is a party to the following Conventions:

- Arab Convention on the Suppression of Terrorism (signed at Cairo on 22 April 1998); ratification on 15 February 1999;
- Organization of African Unity Convention on the Prevention and Combating of Terrorism (adopted at Algiers on 14 July 1999); ratification on 1 August 2001.

On 6 November 2000 Tunisia signed the convention of the Organization of the Islamic Conference on Combating International Terrorism.

IV. Other international conventions relating to terrorism:

- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (concluded at Washington, London and Moscow on 10 April 1972); ratified by Tunisia on 23 March 1973;
- Convention on the prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (adopted at Geneva on 3 September 1992); ratified by Tunisia on 3 March 1997;
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction (18 December 1997); signed by Tunisia on 4 December 1997 and ratified by it on 2 November 1998;
- United Nations Convention against Transnational Organized Crime; signed by Tunisia on 14 December 2000.

Chapter IV
International cooperation in the field of counter-terrorism

Questions of the Committee relating to paragraph 3 of resolution 1373 (2001)

Subparagraph (a) — What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

Subparagraph (b) — What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?

Subparagraph (c) — What steps have been taken to cooperate in the areas indicated in this subparagraph?

Bilateral agreements in the security field

Tunisia has concluded bilateral agreements with numerous States to ensure an exchange of information on terrorist activities, as well as agreements relating to the extradition of criminal offenders and legal cooperation in penal matters.

Through the bilateral agreements it has concluded with numerous States and within the framework of meetings of Arab Ministers of the Interior and the mechanism of the Council of Ministers of the Interior of the Western Mediterranean or the Mediterranean Forum, Tunisia strives to promote genuine and active cooperation in the various operational fields in a way that ensures the successful prevention and countering of this phenomenon. Most of these agreements cover cooperation in the following areas:

- Establishment of joint cooperation in the maintenance of peace and public order and the prevention and investigation of criminal acts, with particular reference to counter-terrorism;
- Promotion of security cooperation at the bilateral and regional levels in the exchange of analyses and experience and the organization of training courses;
- An endeavour to prevent the forgery of documents, particularly identity and travel documents and their circulation among terrorist and members of terrorist groups generally;
- Prevention of all forms of terrorist acts and transborder organized crime;
- Speedy exchange of information concerning the activity of terrorist groups;
- Exchange of information on the structures, leadership, membership, networks, relationships, locations, weapons, supplies, means of financing, capabilities, training facilities and methods of operation of organizations and groups;
- Exchange of expertise and new experience and identification of the latest methods used for discovering, countering and apprehending suspects and arresting offenders;
- Training of security aides in the field of counter-terrorism;
- Preventing the territory of either State being used as a refuge or safe haven by fugitives and criminal offenders wanted by the justice authorities;

- Exchange of expertise and information in the field of land, sea and air transport;

- Periodic exchange of expertise and information regarding overland and air transport with a view to improving the security specifications in effect on a permanent basis so as to ensure constant consistency with the evolving nature of terrorist threats;

- Monitoring and identifying formulas for countering the exploitation of communication technologies and satellite information methods by terrorist organizations.

Customs agreements

Tunisia has ratified a number of multipartite and bilateral customs agreements concerned with the combating of smuggling. The following are some examples:

• **International and regional agreements:**

- International Convention on Mutual Administrative Assistance for the Prevention, Investigation and Repression of Customs Offences (Nairobi, 9 June 1977);

- Protocol No. 5 on Mutual Assistance in the Customs Field between Administrative Authorities, appended to the European-Mediterranean Agreement establishing partnership between the Republic of Tunisia, on the one hand, and the European Union and its member States, on the other (Brussels, 17 July 1995).

• **Bilateral agreements:**

- Agreement between Tunisia and Algeria on the exchange of administrative assistance for the prevention, detection and suppression of customs offences (Tunis, 9 January 1981);

- Agreement between Tunisia and Italy on mutual administrative cooperation for the prevention, detection and suppression of customs offences;

- Agreement between Tunisia and Egypt on mutual administrative coordination for the prevention, investigation and deterrence of customs offences (Tunis, 6 March 1999);

- Agreement between Tunisia and Libya on mutual administrative assistance for the prevention, investigation and deterrence of customs offences;

- Agreement between the countries of the Arab Maghreb on mutual administrative assistance for the prevention, investigation and deterrence of customs offences (Tunis, 2 April 1988);

- Agreement between the Republic of Tunisia and the Kingdom of Morocco on mutual administrative assistance for the prevention, investigation and deterrence of customs offences (Tunis, 6 May 1998).

With regard to the Security Council Committee's request regarding a formula to enable States to incorporate in their reports additional information relating, for example, to the issues referred to in paragraph 4 of resolution 1373 (2001) and a formula to enable them to include general observations on the implementation of the

resolution and the reference to difficulties they may encounter, the following should be emphasized.

The importance of endeavouring to develop machinery for international cooperation to eliminate all forms of terrorism is clearer today than at any time in the past, and the texts relating to terrorism must be promoted in the form of a comprehensive international treaty that makes it possible to prevent and counter this grave phenomenon.